

and that the person or persons so summoned are the proper person or persons to prosecute such suit, issue attachment of contempt to compel an appearance of such person or persons to prosecute such action, and if the person or persons so summoned do not appear to prosecute such action, either in proper person or by attorney, by the fourth day of the court next after the court to which such summon may be returned served, judgment of non-suit shall be entered, and such judgment, when entered, shall be of the same validity, and have every legal consequence, to all intents, purposes and effects, as if the same had been entered against the original plaintiff in the case, and the court may fine such person for not appearing a sum not exceeding ten pounds current money; and if the person or persons so summoned to prosecute the action aforesaid shall appear to such action at any time before judgment of non-suit entered as aforesaid, all proceedings in the action had before the death shall be considered as proceedings in the cause, and such other proceedings shall be had as may by the court be judged necessary and proper so bring the cause fairly to trial; and the court shall have full power and authority, upon just cause being shewn, to suffer any proceeding by the plaintiff or the defendant to be corrected or altered, and also shall have full power and authority to make, and cause to be executed, such rules and orders in the case, and to direct such proceedings therein, as may be judged necessary and proper to bring the merits of the question between the parties fairly to trial; and in all such cases such judgment shall be given as if the action had been originally brought by the plaintiff or plaintiffs so appearing, or summoned to appear, as aforesaid, and the costs accruing before the death shall be taxed as part of the costs in the action; and if the person appearing as aforesaid shall die before trial and judgment had in the case, the heir, devisee, executor or administrator, of the person so appearing as aforesaid, or the executor or administrator of the deceased, as the case may require, or other proper person to prosecute such suit, may appear or be compelled to appear as aforesaid, and there shall be such proceeding, judgment and costs taxed as aforesaid, and so *toties quoties* until there be a trial and judgment had in the case; and in all cases of death of the plaintiff, after the appearance of the defendant's heir, devisee, executor or administrator, or other proper person to defend as aforesaid, and all cases of death of the defendant after appearance of the plaintiff's heir, devisee, executor, administrator, or other proper person to prosecute such suit, shall be taken and considered as within the meaning and provision of this act; and in case there be no appearance or proceeding by either party in any case aforesaid before the tenth day of the second court after the death

No action shall abate, &c.